

## **REMARKS**

The Office Action dated August 16, 2007 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1 and 40 have been amended to correct minor informalities. Claims 1, 6-7, 9-15, 17-19, 38, 40 and 47-53 are submitted for reconsideration.

Claims 1, 6-7, 9-13, 15, 17-19, 38, 40, 47-53 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,943,610 to Endo.

The rejections of claims 1-13, 15-21, 24-26 and 47-53 are traversed as being based on a reference (Endo) that does not teach or suggest the combination of elements recited in any of the claims.

Claim 1, upon which claims 6-7, 9-15 and 17-19 are dependent, recites a method of controlling the power with which a first station transmits signals to a plurality of second stations. The method includes receiving from each of the plurality of second stations at the first station a power control command having a given value, determining received values of said received power control commands, combining the determined received values of the received power control commands from each of the second stations to generate a combined value, comparing the determined received values with a first threshold value, determining a given value for each received power control command based on the comparison, selecting one of the determined given values in accordance

with a predetermined criterion, and controlling the power at which the first station transmits signals based on the combined value from combining determined received values and the selected determined given value from comparing the determined received values.

Claim 38, upon which claims 40 and 47-52 are dependent, recites a device for a first station which in use transmits signals to a plurality of second stations. The device including means for determining received values of power control command received from the plurality of second stations, each power control command having a given value, means for combining the determined received values of said received power control command from each of the second stations to generate a combined value, means for comparing the determined received values with a first threshold value, determining a given value for each received power control command based on the comparison, and selecting one of the determined given values in accordance with a predetermined criterion, and means for controlling the power with which the first station transmits to the second stations based on said combined value and the selected determined given value.

Claim 53 recites a device for a first station which in use transmits signals to a plurality of second stations. The device is configured to determine received values of power control command received from said plurality of second stations, each power control command having a given value, combine the determined received values of said received power control command from each of the second stations to generate a combined value, compare the determined received values with a first threshold value,

determine a given value for each received power control command based on the comparison, and select one of the determined given values in accordance with a predetermined criterion, and control the power with which the first station transmits to the second stations based on said combined value and the selected determined given value.

As will be discussed below, Endo fails to disclose or suggest the elements of any of the presently pending claims. Endo is directed to a transmission power control system that controls the transmitting power level of a mobile terminal. Referring to FIG. 1 of Endo, a mobile terminal 100 is communicating with a base station 101 controlled by a base station controller 103. The reception field strength of the mobile terminal 100 is measured by the base station controller 103, which uses separate functions to monitor and instruct the mobile terminal to increase/decrease transmission power depending on the measured reception field strength. (Emphasis added)

Applicants submit that Endo does not disclose the combination of elements recited in any of the independent claims 1, 38 and 50. For instance, claim 1 recites:

“receiving from each of the plurality of second stations at the first station a power control command having a given value; determining received values of said received power control commands[;] **combining** the determined received values of the received power control commands from each of the second stations to generate a combined value...controlling the power at which the first station transmits signals based on the combined value...and the selected determined given value from comparing the determined received values.”

Among other deficiencies, Endo does not disclose a plurality of second stations, combining received values or generating a combined value. After careful review of Endo, Applicants submit that nowhere does Endo disclose receiving a power control command from a plurality of stations. At best, the transmission power control system of Endo is limited to controlling the transmission power of an individual mobile terminal based on a series of measured signal strength values measured over time for the exact same mobile terminal. (Emphasis added) Endo further fails to disclose any type of combining operation. The measured values received from the mobile terminal are not combined with other measured values received from that same mobile terminal or any other mobile terminal. (Emphasis added) In addition, because Endo does not disclose a combining operation, clearly Endo also fails to disclose controlling the transmission power of the mobile terminal based on any sort of combined value. (Emphasis added) Furthermore, the selected determined given value recited in claim 1 could not possibly be taught by Endo because of the lack of a plurality of stations of which a plurality of values could be obtained to select a determined given value. (Emphasis added)

Therefore, Applicants request that the rejections be withdrawn because Endo fails to teach or suggest each of the elements recited in independent claim 1, and similarly recited in independent claims 38 and 53. By virtue of dependency claims 6-7, 9-15, 17-19, 38, 40 and 47-53 have also overcome reference Endo. Withdrawal of all outstanding rejections is requested.

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,808,041 to Endo. Applicants again note that U.S. Patent No. 6,808,041 is granted to Demerly and not to Endo. Furthermore, the subject matter described in Demerly is directed to a method for implementing directional control of a motor vehicle during a primary steering system failure, which is unrelated to the subject matter recited in the claims of Applicants' disclosure.

Aside from the patent number discrepancy, the Office Action seems to contain arguments that claim 14 is rejected based on the disclosure of Endo. Therefore, Applicants present arguments below to distinguish claim 14 from Endo.

In the rejection of claim 14, the Office Action submits that Endo fails to teach the threshold value in the range of -0.025 and -0.30. However, the Examiner took official notice that the threshold value in the range of -0.025 and -0.30 is a design choice.

The Examiner alleges it would have been a matter of design choice to select the range -0.025 and -0.30 to control performance of the system more precisely. Such allegation is a conclusion rather than a reason to make the particular modification (i.e., the threshold value in the range of -0.025 and -0.30) to the method of Endo. If the Examiner is relying on personal knowledge to support a finding of what is known in the art, the Examiner **must provide** an Affidavit or Declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2) and MPEP 2144.03(c). Accordingly, Applicants respectfully challenge the Examiner's use of design choice as a basis for rejection and respectfully require the Examiner to withdraw the

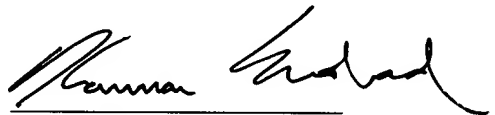
rejection or provide an Affidavit or Declaration as set forth above if the rejection is to be maintained.

As noted previously, claims 1, 6-7, 9-15, 17-19, 38, 40 and 47-53 recite subject matter which is neither disclosed nor suggested in Endo. It is therefore respectfully requested that all of Claims 1, 6-7, 9-15, 17-19, 38, 40 and 47-53 be allowed and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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